XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक MA(C) 833/07 सन् 200

(24)

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
|---|---|---|
| | APPELLANTS (Claimants) | 1. Smt. Dhaneshwari Bai, age 28 years, W/o Late Heeralal Negi, Housewife. |
| | | 2. Santosh @ Chandrakala, age 11 years, Minor, S/o Late Heeralal Negi. |
| | | 3. Suresh, Age 9 years, Minor, S/o Late Heeralal Negi. |
| | | 4. Ku. Laxmi, Age 7 years, Minor, D/o Late Heeralal Negi. |
| | | 5. Narendra, Age 2 years, Minor, S/o Late Heeralal Negi. |
| | | (All the minor appellant Nos.2 to 5 are represented by their mother appellant No.1 Smt. Dhaneshwari Bai, W/o Late Heeralal Negi). |
| | | 6. Smt. Khorbaharin Bai, Age 65 years, W/o Late Kaliram, Housewife. |
| | | All the above are R/o Village Pasid, P.O. Pasid, P.S. Tumgaon, Tahsil & District Mahasamund (CG). |
| | | -Versus- |
| | RESPONDENTS (Non-applicants) | 1. Dileshwar Sahu, S/o Dayaram Sahu, By profession Driver, R/o village Pasid, P.O. Pasid, P.S. Tumgaon, Tahsil & Distt. Mahasamund (CG). |
| | | (Driver of the Pick-up Max No.CG06-B/2973) |
| | | 2. Nathuram Sahu, age 48 years, S/o Dayaram Sahu, R/o Village Pasid, P.O. Pasid, P.S. Tumgaon, Tahsil & District Mahasamund (CG). |
| | | (Owner of the Pick-up Max No.CG06-B/2973) |

(07752) 236123, 3624

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(25)

**मामला क्रमांक ..... सन् 200**

**आदेश पत्रक (पूर्वानुबद्ध)**

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश —2— | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
|---|---|---|
| | | 3. The New India Insurance Com. Ltd., through Manager/D.O. Branch Office at Raipur, Tahsil & Dist. Raipur (CG).<br>(Ins. Com. of the Pick-up Max No.CG06-B/2973)<br>4. Puna – Ranchi Road Lines Pvt. Ltd., through Manager/D.O. Baal Complex, Shop No.02, Tatibandh, Transport Nagar, Raipur, District Raipur (CG).<br>5. Subodh Giri, S/o Naresh Giri, age 30 years, Driver, R/o village Juniya, Through Jhumra, P.S. Muffassil, Hazaribagh (Jharkhand).<br>6. The United India Insurance Com. Ltd., Through Manager, D.O., Branch Office at Raipur, Tahsil & District Raipur (CG).<br>(Ins. Com. of the Truck No.CG04-ZC/1986) |

(Appeal under Section 173 of the Motor Vehicles Act, 1988)

**Division Bench :**

**Hon'ble Mr. L.C. Bhadoo &**
**Hon'ble Mr. Sunil Kumar Sinha, JJ**

**25-7-2007**

Shri J.A. Lohani, counsel for the appellants.

Shri H.B. Agrawal, Sr. Advocate assisted by Miss Sangeeta Mishra, Advocate, is directed to take notice on behalf of respondent No.6/ United India Insurance Company Ltd. Copy of memo of appeal is served on him.

Heard on I.A.No.1, application for amendment in the cause title.

(07752) 236123,

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(26)

मामला क्रमांक.....सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश -3- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
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For the reasons mentioned in the application (I.A.No.1), the same is allowed and counsel for the appellants is permitted to carry out the necessary amendment in the Court itself. Accordingly, he carried out the amendment.

Also heard on admission.

In this appeal, only grievance of the appellants is that wrong multiplier has been applied by the Claims Tribunal, therefore, short point is involved in this appeal, as such, counsel for the parties are heard for final disposal.

This appeal has been directed under Section 173 of the Motor Vehicles Act, 1988 being aggrieved by the award dated 28-12-2006 passed by the Principal Accident Claims Tribunal, Mahasamund, in claim case No.37/2006 whereby the Tribunal has passed the award to the tune of Rs.2,92,000/- in favour of the appellants and against the United India Insurance Company Ltd. and one Subodh Giri, Manager, Ranchi Road Lines.

Learned counsel for the appellants argued that deceased Heeralal Negi was aged 32 years at the time of accident and perusal of para 21 of the impugned award shows that even there is a finding of the Tribunal that the deceased was aged 32 years at the time of accident. This claim petition has been filed by the wife & children of the deceased as well as widow mother, aged about 65 years. He further submits that as per the second schedule, looking to the age of the deceased; learned Tribunal ought to have applied the multiplier of 17 whereas the multiplier of 12 has been applied.

On the other hand, Shri Agrawal, learned senior counsel, argued that the conclusion of the learned Tribunal is just & reasonable and the award has been passed after considering the entire facts and circumstances of the case.

Having heard learned counsel for the parties, we have perused the award. As per para 21 of the impugned award, the age of the deceased was

(07752) 235123,

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(27)

**मामला क्रमांक ..... सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश —4— | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश |
|---|---|---|

32 years at the time of accident. As per the second schedule annexed with the Motor Vehicles Act if the age of the victim is between 32-35 years then multiplier of 17 has to be applied, therefore, the wrong multiplier of 12 has been applied by the Tribunal which is not correct. Therefore, the appellants are entitled for enhancement of compensation by Rs.1,16,000/-.

If the multiplier of 17 is applied to the annual dependency of Rs. 24,000/- the compensation amount comes to Rs.4,08,000/-, therefore, the appellants are entitled for the claim amount to the tune of Rs.4,08,000/- apart from Rs.2,000/- towards funeral expenses and Rs.2,000/- towards loss of consortium. In all they are entitled for Rs.4,12,000/-.

Accordingly, the appeal is allowed and the compensation amount is enhanced to Rs.4,12,000/- from Rs.2,92,000/-. The above amount shall carry interest at the rate of 6% per annum from the date of filing of application i.e. 8-11-2005 till its realization. The award of apportionment made by the Tribunal in para 24 shall be applied in the same fraction for the above amount awarded by this Court also.

Sd/-
L.C. Bhadoo
Judge

Sd/-
Sunil Kumar Sinha
Judge

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